

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the following remarks.

Claims 1, 3-13 and 15-21 are pending in this application. Claims 1 and 15 are the only independent claims. By this Amendment, the specification and claims 1, and 15 are amended. Support for the amendments to claims 1 and 15 can be found, for example, in Fig. 1. No new matter is added.

The Office Action objects to the specification because of informalities. The objection is respectfully traversed in part.

First, the specification is properly amended as shown above to be more commensurate with the claims. The claims are not limited to the disclosed embodiments.

Second, the Office Action asserts that paragraphs [0020] and [0021] of the specification should be amended so that the attachment points (i.e., reference numerals 10a, 10b, 11a, 11b, 14a, 14b, 15a, 15b) are described as being "on" the front edge as opposed to the currently described "near" the front edge 12, to be consistent with the original drawings. However, original Fig. 1 illustrates that the attachment points are "near" rather than "on" the front edge 12. None of the attachment points (i.e., reference numerals 10a, 10b, 11a, 11b, 14a, 14b, 15a, 15b) are "on" the front edge 12 or the rear edge 13. Accordingly, paragraphs [0020] and [0021] of the specification were amended on January 22, 2009 to correct the discrepancy between the original versions of these paragraphs and original Fig. 1. In the event the Examiner maintains this objection, the examiner is respectfully

requested to point out with particularity where she believes the drawings show the attachment points as being "on" the front edge.

Withdrawal of the objection is respectfully requested.

Claims 1, 3-7, 11-13 and 15-21 stand rejected under 35 U.S.C. §103(a) over JP-A-64-77607 to Suzuki in view of U.S. Patent No. 6,142,985 to Feist and U.S. Patent No. 4,695,278 to Lawson, and further in view of U.S. Patent No. 5,026,364 Robertson; or alternatively under 35 U.S.C. §103(a) over Suzuki in view of U.S. Patent No. 5,496,428 to Sageser et al. ("Sageser"), and further in view of Feist, Lawson and Robertson. In addition, claims 8-10 stand rejected under 35 U.S.C. §103(a) over Suzuki in view of Sageser, Feist, Lawson and Robertson. The rejections are respectfully traversed.

Independent claim 1 recites an absorbent article including a rear barrier formed in the rear portion and attached to the article along the rear edge of the article, and that a first side barrier is secured to the upper cover sheet of the article to form a first line of attachment and a second side barrier is secured to the upper cover sheet to form a second line of attachment. The first and second side barriers cooperate with the rear barrier to form a pocket. The pocket extends to the rear edge of the article and continuously between and beyond the first and second lines of attachment in respective outward transverse directions of the article. Independent claim 15 is directed to an absorbent article including similar features.

The Office Action acknowledges that Suzuki fails to disclose a rear barrier and pocket formed in the rear portion of the article as defined in independent claims 1 and 15 at issue here. Further, Lawson and Sageser also fail to disclose a rear barrier. Thus, Lawson and Sageser necessarily fail to disclose a rear barrier

comprising a pocket having the above claimed features. The Office Action asserts that Feist and Robertson disclose first and second side barriers cooperating with a rear barrier to form a pocket as defined above.

On page 7 of the Office Action, the Examiner states that the prior art combination teaches/suggests that a pocket is formed as claimed and extends to the rear edge and continuously between and beyond the lines of attachment in the transverse direction and extend thereunder as well as for taking up bodily excretions in the directions rearwards. This assertion is respectfully traversed.

Instead, Robertson discloses in an embodiment in which the outward portion 80 of the waistcap/waistband 78 can extend across the entire lateral width of the diaper 20 (see column 13, line 52 to column 14, line 22 of Robertson), to form a pocket having the a boundary like "96" shown in Fig. 1 but adjacent the tape tab fasteners 54. The Office Action interprets this configuration to result in a pocket formed by the waistcap/waistband 78 that extends beyond lines 92 in the transverse direction of the diaper 20 and is attached to the diaper 20 adjacent tape tab fasteners 54. In Robertson there is no pocket that extends across the entire width of the diaper 20 between a surface (adjacent the arrow 60 in Fig. 2) of the barrier cuffs 62 and the surface (adjacent the arrow from 78 in Fig. 3) of the waistcap/waistband 78 and outwardly beyond the edge attachments 98.

In this configuration, the pocket that extends across the entire width of the diaper 20 and is defined by the cooperation of the waistcap/waistband 78 and *the liquid receiving surface 40* at the location where lateral edges of the extended waistcap/waistband 78 are attached adjacent tape tab fasteners 54. Such a pocket is not defined by a cooperation of the waistcap/ waistband 78 and the *barrier cuffs*

62, as the barrier cuffs 62 are provided inward of the edge attachment 98. In other words, the extent of this pocket is defined by the liquid receiving surface 40 rather than the barrier cuffs 62. That is, the waistcap/ waistband 78 does not cooperate with the barrier cuffs 62 to form a pocket that extends outwardly beyond the edge attachments 98 ("first and second lines of attachment") in the transverse direction of the diaper 20, as recited in independent claims 1 and 15.

Moreover, the pocket formed by the cooperation of the barrier cuffs 62 with the waistcap/waistband 78 shown in Fig. 1 of Robertson does not extend outwardly beyond the edge attachment 98 ("first and second lines of attachment"). As shown in Fig. 1, the second edge 66 of the barrier cuffs 62 and the distal edges 86 of the inward portion 82 of the waistcap/waistband 78 overlap at four points or areas 110 to provide a containment pocket (see column 5, lines 12-15). Thus, the pocket formed by any cooperation of the barrier cuffs 62 with the waistcap/waistband 78 extends only to the four points 110 shown in Fig. 1 of Robertson, i.e., not outwardly beyond the edge attachments 98.

Thus, Robertson fails to disclose the claimed pocket formed in the rear portion of the article as defined in independent claims 1 and 15 here.

Feist's diaper 1020 has a pair of barrier flaps 77 and a unitary waistcap/ waistband 70 as shown in Figs. 10 and 11 of Feist. The waistcap/ waistband 70 is attached to the topsheet 24 via side closure member 1018 as shown in Fig. 11 of Feist. Each barrier flap 77 is secured directly to the topsheet 24 by an attachment member at a first location (opposite the element designated with reference numeral 1004 in Fig. 11 of Feist, see column 31, lines 28-30 of Feist), and at a second location via a second closure member 1016 (see Fig. 11 and column 31, lines 45-

47). Further, each barrier flap 77 is secured to the waistcap/waistband 70 via a first closure member 1014 provided directly above the second closure member 1016 (see Fig. 11 and column 31, lines 42-45). Accordingly, the pocket formed by the cooperation of the pair of barrier flaps 77 ("first and second side barriers") with the waistcap/waistband 70 ("rear barrier") extends only to the first closure member 1014 and the second closure member 1016 in the transverse direction of the diaper 1020. The pocket formed by the cooperation of the pair of barrier flaps 77 ("first and second side barriers") with the waistcap/waistband 70 ("rear barrier") does not extend outwardly beyond the first closure member 1014 or the second closure member 1016 ("line of attachment") in the transverse direction of the diaper 1020 or outwardly beyond the location opposite the element designated with reference numeral 1004 in Fig. 11 of Feist where the barrier flap 77 is directly secured to the topsheet 24 ("line of attachment").

Feist's pocket "1076" formed by the waistcap/waistband 70 and the barrier flap 77 as shown in Fig. 11 of the patent is delimited inwardly by the barrier flap 77. That is, the pocket "1076" only extends from one barrier flap 77 outwardly to the waistcap/waistband 70 as shown in Fig. 11. The pocket "1076" does not extend continuously between a first line of attachment associated with one barrier flap 77 and a second line of attachment associated with the other barrier flap 77.

Thus, Feist fails to disclose the claimed continuous pocket formed by the cooperation of the first and second side barriers with the rear barrier.

Accordingly, the combination of applied references, does not disclose, and would not have rendered obvious, the combination of recited features, including the claimed first and second side barriers cooperating with the rear barrier to form a

pocket that extends to the rear edge of the article and continuously between and beyond the first and second lines of attachment in respective outward transverse directions of the article as recited in independent claims 1 and 15. Thus, independent claims 1 and 15 are patentable over the applied references for at least these reasons.

Claims 3-7, 11-13, 16 and 17 are patentable over the applied references at least by virtue of their respective dependence from the patentable independent claims, as well as for the additional features these claims recite.

For example, claims 16 and 17 define that the entire pocket is provided beyond the absorption body in the longitudinal direction.

As clearly shown in Figs. 1-3 of Robertson, at least a portion of the pocket formed by the barrier cuffs 62 and the waistcap/waistband 78 *overlaps* the absorbent core 44 in the longitudinal direction of the diaper 20. That is, the entire pocket is not provided beyond the absorbent core 44 of the diaper 20 in the longitudinal direction of the diaper 20.

The Office Action first alleges that Robertson's disclosure of the inward portion 82 of the waistcap/waistband 78 having a width of "about" 15-25 mm is a teaching with "sufficient specificity" that the entire waistcap/waistband 78 is provided beyond the absorbent core 44 in the longitudinal direction. There is no evidence to support this allegation. For example, the Office Action as not established with any evidence based on facts that a width of "about" 15-25 mm of the inward portion 82 does not overlap the absorbent core 44. Should the rejection be maintained, the Examiner is kindly requested to provide such evidence based on facts.

With respect to the Office Action's second position regarding ranges, claims 16 and 17 do not recite ranges. Thus, the Office Action's application of MPEP §2144.05 and the associated case law is misplaced. Moreover, there is no evidence based on articulated reason or rational underpinning as to why one of ordinary skill in the art would have desired to modify Robertson's pocket to have *less capacity* than the pocket disclosed by Robertson. Thus, claims 16 and 17 are patentable over the applied references for at least these additional reasons.

In addition, claims 18 and 19 recite that the first and second side barriers form a side barrier of the pocket in the longitudinal direction of the article, the side barrier of the pocket being disposed beyond the first and second lines of attachment in the transverse direction of the article.

In the Robertson embodiment in which the Office Action says a pocket extends across the entire width of the diaper 20 between a surface (adjacent the arrow 60 in Fig. 2) of the barrier cuffs 62 and the surface (adjacent the arrow from 78 in Fig. 3) of the waistcap/waistband 78 and beyond the edge attachments 98, the side barriers of such pocket are formed by the waistcap/waistband 78 and the liquid receiving surface 40 at the location where lateral edges of the extended waistcap/waistband 78 are attached adjacent tape tab fasteners 54. The side barriers of such pocket are not formed by the barrier cuffs 62 ("first and second side barriers"), as the barrier cuffs are not disposed beyond the edge attachments 98 ("first and second lines of attachment") in the outwardly transverse direction of the diaper 20. Thus, Robertson fails to disclose the combination of features recited in claims 18 and 19.

Withdrawal of the rejections is respectfully requested.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference with the undersigned would be helpful in resolving any remaining issues pertaining to this application the undersigned respectfully requests that he be contacted at the number indicated below.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: December 21, 2010

By:



Michael Britton

Registration No. 47260

Customer No. 21839

703 836 6620